

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB917)

Received: 03/05/2004

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Bonnie Ladwig (608) 266-9171

By/Representing: Joyce Kiel

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: Probate - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Ladwig@legis.state.wi.us

Carbon copy (CC:) to: joyce.kiel@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Insurance protection against creditor lawsuits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 03/05/2004	kfollett 03/05/2004		_____			
/P1			jfrantze 03/05/2004	_____	sbasford 03/05/2004		
/P2	chanaman	kfollett	jfrantze	_____	sbasford		

03/08/2004 11:57:07 AM

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/07/2004	03/07/2004	03/08/2004	_____	03/08/2004		
	chanaman	kgilfoy		_____			
	03/08/2004	03/08/2004		_____			
/1			chaugen	_____	lemery	lemery	
			03/08/2004	_____	03/08/2004	03/08/2004	

FE Sent For:

<END>

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/P1			jfrantze 03/05/2004		sbasford 03/05/2004		
/P2	chanaman	kfollett	jfrantze		sbasford		

P3 - 3/8
Kmg

03/08/2004 08:14:26 AM

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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03/07/2004	03/07/2004	03/08/2004			03/08/2004		
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3-8

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03/05/2004 12:29:12 PM

Page 1

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/?	chanaman 03/05/2004	kfollett 03/05/2004					
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/P1		1 P2 kjf 3/7	jfrantze 03/05/2004		sbasford 03/05/2004		
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3/7 kjf
3/7 jfrantze
3/8 jfrantze

LRBs0428

03/05/2004 12:29:14 PM

Page 2 ,

FE Sent For:

<END>

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/?	chanaman	1 P1 KJ 3/5	3/5	Self 3/5			

FE Sent For:

<END>

Ladwig-sub - due Friday

e-mail prel. to Ladwig & Joyce Kil

(1) remove initial app

(2) 24 mos before what point in time?

Filing of legal action (complaint or claim) that led to the judgment on which execution order was based or the exemption was claimed, whichever is sooner

(3) Issued or funded?

Can add new funds to already issued contracts.



State of Wisconsin
2003 - 2004 LEGISLATURE

PI
LRBs0428/7
CMH&ARG: [signature]

TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 917

re-enact

1 AN ACT ...; relating to: life insurance and annuity contract exemptions from
2 creditor claims.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 815.18 (2) (am) of the statutes is created to read:
4 815.18 (2) (am) "Annuity" means a series of payments payable during the life
5 of the annuitant or during a specific period.

6 SECTION 2. 815.18 (3) (f) (title) of the statutes is amended to read:
7 815.18 (3) (f) (title) Life insurance and annuities.

History: 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39; 1999 a. 9, 44; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 10.

8 SECTION 3. 815.18 (3) (f) of the statutes is renumbered 815.18 (3) (f) 1. and
9 amended to read:

815.18 (3) (f) 1. ~~Any~~ Except as provided in subd. 2., any unmaturred life insurance or annuity contract owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent, other than a credit life insurance contract, and the debtor's aggregate interest, ~~not to exceed \$4,000 in value,~~ in any accrued dividends, interest, or loan value of all unmaturred life insurance or annuity contracts owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent.

History: 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 229 s. 14; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39; 1999 a. 9, 44; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 10.

SECTION 4. 815.18 (3) (f) 2. of the statutes is created to read:

815.18 (3) (f) 2. a. If the life insurance or annuity contract was issued less than 24 months before the creditor obtains an execution order, the exemption under this paragraph may not exceed \$4,000.

b. If the life insurance or annuity contract was issued at least 24 months but funded less than 24 months before the creditor obtains an execution order, the exemption under this paragraph is limited to the value of the contract before the funding and the lesser of either the difference between the value of the contract before funding and the value of the contract on the date the creditor obtains an execution order or \$4,000.

****NOTE: This subdivision paragraph does not exempt any income on the original amount that accrues between the additional funding and the date of the order.

(END)

Joyce Kiel -- 6-3137

① p 2, ¹/₂ except par. (j) (in addition to subd. 2.)

② initial app. 1989 Act 278 Rep. Rec. SECTION 11

→ exemptions claimed on the effective date ...

1999 Act 162

exemptions issued on the eff. date ...

③ earliest of date fastest way?

exemption is claimed

date of filing,
cause of action ^{was} filed that resulted in the
judgment w/ respect to ^{which} the exemption
order was ~~issued~~ issued
(or entered)

before the earliest of the date

define "applicable date"

ls 15, 16 "that occurred less than 20 mos before appl. date"

Mon 8:30 a.m.

rmr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2003 ASSEMBLY BILL 917

repen cat.

1 AN ACT *to renumber and amend* 815.18 (3) (f); *to amend* 815.18 (3) (f) (title);
2 and *to create* 815.18 (2) (am) and 815.18 (3) (f) 2. of the statutes; **relating to:**
3 life insurance and annuity contract exemptions from creditor claims.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 815.18 (2) (am) of the statutes is created to read:
5 815.18 (2) (am) "Annuity" means a series of payments payable during the life
6 of the annuitant or during a specific period.

7 SECTION 2. 815.18 (3) (f) (title) of the statutes is amended to read:
8 815.18 (3) (f) (title) *Life insurance and annuities.*

9 SECTION 3. 815.18 (3) (f) of the statutes is renumbered 815.18 (3) (f) ²₁ and
10 amended to read:

3. and par. (j)

815.18 (3) (f) ²1. Any Except as provided in subd. 1 any unmatured life insurance or annuity contract owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent, other than a credit life insurance contract, and the debtor's aggregate interest, ~~not to exceed~~ \$4,000 in value, in any accrued dividends, interest, or loan value of all unmatured life insurance or annuity contracts owned by the debtor and insuring the debtor, the debtor's dependent, or an individual of whom the debtor is a dependent.

SECTION ~~4~~ ³ 815.18 (3) (f) ³2. of the statutes is created to read:

815.18 (3) (f) ³2. a. If the life insurance or annuity contract was issued less than ^{applicable date} 24 months before the ~~creditor obtains an execution order~~, the exemption under this paragraph may not exceed \$4,000.

b. If the life insurance or annuity contract was issued at least 24 months but funded less than 24 months before the ^{applicable date} ~~creditor obtains an execution order~~, the exemption under this paragraph is limited to the value of the contract before the ~~that occurred less than 24 months before the applicable date~~ ^{applicable} funding and the lesser of either the difference between the value of the contract before funding and the value of the contract on the ^{applicable} ~~date the creditor obtains an execution order~~ or \$4,000.

use
2
times

****NOTE: This subdivision paragraph does not exempt any income on the original amount that accrues between the additional funding and the date of the order.

18

(END)

SECTION #. Initial Applicability.

(1) The renumbering and amendment of section 815.18 (3) (f) and the creation of section 815.18 (3) (f) 3. of the statutes just applies to exemptions claimed ^S on the effective date of this subsection.

of the
statutes

2003-2004 DRAFTING INSERT
FROM THE
~~LEGISLATIVE REFERENCE BUREAU~~

LRBs0428/P2ins
CMH&ARG:kjf:jf

INS 2-8

- 1 **SECTION 1.** 815.18 (3) (f) 1. of the statutes is created to read:
- 2 815.18 (3) (f) 1. In this paragraph, "applicable date" means the earlier of the
- 3 following:
- 4 a. The date on which ^{the} an exemption is claimed.
- 5 b. The date the cause of action was filed that resulted in the judgment with
- 6 respect to which the execution order was issued.

Hanaman, Cathlene

From: Kiel, Joyce
Sent: Monday, March 08, 2004 10:04 AM
To: Hanaman, Cathlene
Subject: RE: s0428

Cathlene:

Thanks for the /P2. I have a question about it, so please call me as soon as possible. (On page 2, lines 20 and 22, I think it would be clearer if the draft referred to the "value of the contract the day before the first funding that occurred less than 24 months before the applicable date" Especially with variable annuities, the account value could have fluctuated; plus, there may have been multiple fundings after the 24-month period started.)

Re: your comment: While many causes of action do not result in a judgment, the language requested and drafted was the date the cause of action was filed that resulted in the judgment with respect to which the execution order was issued. In the draft, that would be compared to the date the exemption is claimed, and the earlier one would be the "applicable date" from which the 24 months is measured back to in order to see if a contract was issued or money put into an existing contract within that 24-month period or afterwards.

In many cases, the exemption will be claimed in bankruptcy, so there will be no cause of action/judgment/execution. In those cases, the date on which the exemption is claimed will be the only date to measure from. For the nonbankruptcy cases, it is true that many causes of action do not result in a judgment, much less an execution. But, for nonbankruptcy cases, you have to have a judgment before an execution order is issued, and you have to have an action filed to get a judgment. I think Rep. Ladwig's concern is to keep a person from sheltering money in a life insurance or annuity when threatened with a lawsuit. Do you think it would be clearer to add "If any" to proposed s. 815.18 (3) (f) 1.?

Looking forward to talking to you soon.

Joyce L. Kiel, Senior Staff Attorney
Wisconsin Legislative Council Staff
Suite 401, One East Main Street
Madison, WI 53703
608-266-3137
608-266-3830 (fax)
Joyce.Kiel@legis.state.wi.us

-----Original Message-----

From: Hanaman, Cathlene
Sent: Sunday, March 07, 2004 12:42 PM
To: Kiel, Joyce
Subject: s0428

Joyce,

Thanks for your message. You should see the draft first thing Monday morning.

I believe that I added all of your suggested changes. In the /1, we went with "creditor obtains an execution order" because many causes of actions may not result in a judgment or execution order. But you said that Representative Ladwig prefers the date to be the filing of the cause of action so that is the date.

I drafted the initial app to be consistent with 1989 Act 278, per your comments.

I should be in the office around 9:30 on Monday if you would like to chat some more.

-Cathlene



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0428/P2
CMH&ARG:kjfjf

Mon
Noon

①
kg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT ,

TO 2003 ASSEMBLY BILL 917

refer

1 AN ACT *to renumber and amend* 815.18 (3) (f); *to amend* 815.18 (3) (f) (title);
2 and *to create* 815.18 (2) (am), 815.18 (3) (f) 1. and 815.18 (3) (f) 3. of the statutes;
3 relating to: life insurance and annuity contract exemptions from creditor
4 claims.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 815.18 (2) (am) of the statutes is created to read:
6 815.18 (2) (am) "Annuity" means a series of payments payable during the life
7 of the annuitant or during a specific period.

8 SECTION 2. 815.18 (3) (f) (title) of the statutes is amended to read:
9 815.18 (3) (f) (title) *Life insurance and annuities.*

10 SECTION 3. 815.18 (3) (f) of the statutes is renumbered 815.18 (3) (f) 2. and
11 amended to read:

1 815.18 (3) (f) 2. ~~Any~~ Except as provided in subd. 3. and par. (j), any unmatu-
2 life insurance or annuity contract owned by the debtor and insuring the debtor, the
3 debtor's dependent, or an individual of whom the debtor is a dependent, other than
4 a credit life insurance contract, and the debtor's aggregate interest, ~~not to exceed~~
5 \$4,000 ~~in value~~, in any accrued dividends, interest, or loan value of all unmatu-
6 re life insurance or annuity contracts owned by the debtor and insuring the debtor, the
7 debtor's dependent, or an individual of whom the debtor is a dependent.

8 **SECTION 4.** 815.18 (3) (f) 1. of the statutes is created to read:

9 815.18 (3) (f) 1. In this paragraph, "applicable date" means the earlier of the
10 following:

11 a. The date on which the exemption is claimed.

12 b. The date ^{, if any, that} the cause of action was filed that resulted in the judgment with
13 respect to which the execution order was issued.

14 **SECTION 5.** 815.18 (3) (f) 3. of the statutes is created to read:

15 815.18 (3) (f) 3. a. If the life insurance or annuity contract was issued less than
16 24 months before the applicable date, the exemption under this paragraph may not
17 exceed \$4,000.

18 b. If the life insurance or annuity contract was issued at least 24 months but
19 funded less than 24 months before the applicable date, the exemption under this
20 paragraph is limited to the value of the contract ^{the day} before the ^{first} funding that occurred less
21 than 24 months before the applicable date and the lesser of either the difference
22 between the value of the contract ^{the day} before the ^{first} funding that occurred less than 24
23 months before the applicable date and the value of the contract on the applicable date
24 or \$4,000.

25 **SECTION 6. Initial applicability.**

(1) The renumbering and amendment of section 815.18 (3) (f) of the statutes and the creation of section 815.18 (3) (f) 3. of the statutes first applies to exemptions claimed on the effective date of this subsection.

(END)